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EXAMINER
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SHELEHEDA, JAMES R

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 05/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/964,890

Applicant(s)

HENDRICKS, JOHN S.

Examiner

James Sheleheda

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. Claim 3 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The current invention describes a menu system wherein a menu is provided for listing user selected favorite channels (see current specification at page 39, lines 11-16 and parent application 07//991,074 at Fig. 51h and page 105, line 1-page 106, line 5) and a **separate** menu for favorite channels based upon most often watched channels (see current specification at page 39, lines 11-16 and parent application 07//991,074 at Fig. 51h and page 105, line 1-page 106, line 5).

The disclosure as originally filed fails to disclose “at least one favorite channels menu displaying at least some of the first and second plurality of favorite channels”, as recited in the claim 3, lines 9-11. There is no single menu disclosed as displaying both the “first plurality” representing user selected favorites and the “second plurality” representing most watched channels, as each plurality is disclosed as being listed in separate menus.

### ***Claim Rejections - 35 USC § 103***

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2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Banker et al. (Banker) (5,477,262) (of record) in view of Remillard (5,404,393).

As to claim 22, while Banker discloses an interactive electronic program guide for controlling display of content on a television associated with a set top box (Fig. 3, 300; column 3, lines 20-29 and column 10, lines 61-63), the guide comprising:

a plurality of interactive menus (interactive menus for such features as sleep mode, messages, pay-per-view, VCR timing and STB control; Figs. 8, 10, 12, 16A, 18 and 20; column 21, line 44-column 25, line 27), each corresponding to a level of interactivity and having one or more interactive menu items for selection (Figs. 8, 10, 12, 16A, 18 and 20; column 21, line 44-column 25, line 27);

a main menu having one or more main menu items for selection (top menu; Fig. 7A), which main menu items correspond to the interactive menus (corresponding to the submenus; Fig. 7 and 7A; column 21, lines 34-45),

a mask to mask portions of a video (menu background; column 11, lines 18-30 and column 12, line 62-column 13, line 13);

a cursor highlight overlay to indicate the position of a cursor on at least one of the menus (cursor icon; Fig. 7A; column 12, lines 27-62 and column 21, lines 35-38), wherein the cursor highlight overlay is moveable in response to pressing of cursor

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movement buttons by a user (column 21, lines 15-43), and wherein a second graphic representing the cursor highlight overlay is stored in a second graphics file in the memory of the set top terminal (column 12, lines 27-48);

wherein the cursor highlight is displayed over the at least one of the menus (see Fig. 7A; column 21, lines 34-43) which is displayed over the mask (column 11, lines 23-31 and column 12, line 63-column 13, line 13); and

wherein the menus are navigated using a user input (column 21, lines 34-43), and wherein the main menu items and the interactive menu items are responsive to selection signals received from the user input (column 21, lines 34-43), he fails to specifically disclose wherein the mask is stored in a first graphics file in a memory of the set top.

In an analogous art, Remillard discloses television set top box (Fig. 1, 20) for generating menus overlaid onto a video program (Fig. 4; column 5, line 50-column 6, line 21) which stores menu backgrounds in memory (column 3, lines 11-20) for later output and display (column 3, lines 1-20) for the typical benefit of allowing a user to select a preferred background for display (column 3, lines 11-20).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Banker's system to include wherein the mask is stored in a first graphics file in a memory of the set top, as taught by Remillard, for the typical benefit of allowing a user to select a preferred background for display.

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As to claim 23, while Banker discloses a set top terminal (Fig. 3, 300; column 10, lines 61-63) for generating an interactive electronic program guide for display on a television connected to the set top terminal (Fig. 3; column 3, lines 20-29), the terminal comprising:

- means for retrieving information about a subscriber (column 24, lines 19-39);

- means for receiving a television signal (column 10, line 61-column 11, line 22);

- means for extracting individual programs from the television signal (column 13, lines 49-59);

- means for storing a first graphics file (column 12, lines 27-61) and a second graphics file (column 12, lines 27-61);

- means for generating an electronic program guide for controlling display of content on a television screen (column 11, lines 21-31), the guide comprising:

- a plurality of interactive menus (interactive menus for such features as sleep mode, messages, pay-per-view, VCR timing and STB control; Figs. 8, 10, 12, 16A, 18 and 20; column 21, line 44-column 25, line 27), each corresponding to a level of interactivity and having one or more interactive menu items for selection (Figs. 8, 10, 12, 16A, 18 and 20; column 21, line 44-column 25, line 27);

- a main menu having one or more main menu items for selection (top menu; Fig. 7A), which main menu items correspond to the interactive menus (corresponding to the submenus; Fig. 7 and 7A; column 21, lines 34-45), wherein the menus are navigated using a user input (column 21, lines 34-43), and wherein the main menu items and the

interactive menu items are responsive to selection signals received from the user input (column 21, lines 34-43);

a mask to mask portions of a video (menu background; column 11, lines 18-30 and column 12, line 62-column 13, line 13); and

a cursor highlight overlay to indicate the position of a cursor on at least one of the menus (cursor icon; Fig. 7A; column 12, lines 27-62 and column 21, lines 35-38), wherein the cursor highlight overlay is moveable in response to pressing of cursor movement buttons by a user (column 21, lines 15-43), and wherein a second graphic representing the cursor highlight overlay is stored in the second graphics file in the memory of the set top terminal (column 12, lines 27-48);

wherein the cursor highlight is displayed over the at least one of the menus (see Fig. 7A; column 21, lines 34-43) which is displayed over the mask (column 11, lines 23-31 and column 12, line 63-column 13, line 13); and

means for receiving the selection signals from the user input (Figs. 3 and 4; column 16, lines 19-42), he fails to specifically disclose wherein the mask is stored in the first graphics file in a memory of the set top.

In an analogous art, Remillard discloses television set top box (Fig. 1, 20) for generating menus overlaid onto a video program (Fig. 4; column 5, line 50-column 6, line 21) which stores menu backgrounds in memory (column 3, lines 11-20) for later output and display (column 3, lines 1-20) for the typical benefit of allowing a user to select a preferred background for display (column 3, lines 11-20).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Banker's system to include wherein the mask is stored in the first graphics file in a memory of the set top, as taught by Remillard, for the typical benefit of allowing a user to select a preferred background for display.

4. Claims 8-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Banker in view of Remillard and Gibson (5,539,871) (of record).

As to claim 8, Banker discloses a set top terminal (Fig. 3, 300; column 10, lines 61-63) for generating an interactive electronic program guide for display on a television connected to the set top terminal (Fig. 3; column 3, lines 20-29), the terminal comprising:

a plurality of menus (interactive menus for such features as sleep mode, messages, pay-per-view, VCR timing and STB control; Figs. 8, 10, 12, 16A, 18 and 20; column 21, line 44-column 25, line 27), including an overlay menu that is displayed during the program (column 12, line 62-column 13, line 12), the overlay menu having interactive features (Figs. 8, 10, 12, 16A, 18 and 20; column 21, line 44-column 25, line 27);

a mask to mask portions of a video (menu background; column 11, lines 18-30 and column 12, line 62-column 13, line 13);

a cursor highlight overlay to indicate the position of a cursor on at least one of the menus (cursor icon; Fig. 7A; column 12, lines 27-62 and column 21, lines 35-38), wherein the cursor highlight overlay is moveable in response to pressing of cursor



movement buttons by a user (column 21, lines 15-43), and wherein a second graphic representing the cursor highlight overlay is stored in a second graphics file in the memory of the set top terminal (column 12, lines 27-48);

wherein the cursor highlight is displayed over the at least one of the menus (see Fig. 7A; column 21, lines 34-43) which is displayed over the mask (column 11, lines 23-31 and column 12, line 63-column 13, line 13).

While Banker discloses an overlay menu that is displayed in response to a signal received from the user input (column 19, line 59-column 20, line 5), he fails to specifically disclose a logo that is displayed on the television screen during one of the programs, which program has one or more interactive features, wherein the logo indicates to a user that the interactive features are available for the program and wherein the mask is stored in the first graphics file in a memory of the set top.

In an analogous art, Gibson discloses a system wherein an interactive menu system for display on a television in conjunction with television programming (column 2, lines 10-27), wherein

a logo that is displayed on a display during a program having one or more interactive features (column 3, line 65-column 4, line 35 and column 6, lines 1-24);

a overlay menu that is displayed during the program (displayed list of choices; column 6, lines 51-56), the overlay menu including the interactive features (column 6, lines 53-62),

wherein the logo indicates to a user that the interactive features are available for the program (column 4, lines 7-35 and column 6, lines 1-24), and wherein the overlay

menu is displayed in response to a signal received from a user input (column 6, line 38-56) for the typical benefit of allowing a user to elect to access additional information associated with a multimedia presentation (column 1, lines 39-63).

Additionally, in an analogous art, Remillard discloses television set top box (Fig. 1, 20) for generating menus overlaid onto a video program (Fig. 4; column 5, line 50-column 6, line 21) which stores menu backgrounds in memory (column 3, lines 11-20) for later output and display (column 3, lines 1-20) for the typical benefit of allowing a user to select a preferred background for display (column 3, lines 11-20).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Banker's system to include a logo that is displayed on the television screen during one of the programs, which program has one or more interactive features, wherein the logo indicates to a user that the interactive features are available for the program, as taught by Gibson, for the typical benefit of providing a user with a means to easily identify and access additional information related to a displayed video presentation.

Additionally, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Banker and Gibson's system to include wherein the mask is stored in the first graphics file in a memory of the set top, as taught by Remillard, for the typical benefit of allowing a user to select a preferred background for display.

As to claim 9, Banker, Gibson and Remillard disclose wherein the overlay menu includes menu options for a plurality of interactive features (see Banker at Figs. 7 and 7A and Gibson at column 5, lines 38-54 and column 6, lines 52-56).

As to claim 10, Banker, Gibson and Remillard disclose wherein the overlay menu further includes a menu option to return to the program without the interactive features (see Banker at Fig. 7A and Gibson at column 6, lines 57-60 and Fig. 6, steps 610, 612 and 616).

As to claim 11, Banker, Gibson and Remillard disclose a cursor that indicates one of the menu options (see Banker at column 21, lines 34-43 and Gibson at column 6, lines 51-56, column 4, lines 27-35 and column 3, lines 36-39), wherein the cursor is controlled by the user input (see Banker at column 21, lines 34-43 and Gibson at column 4, lines 27-35 and column 3, lines 36-39).

As to claim 12, Banker, Gibson and Remillard disclose wherein the interactive features include facts related to the program (see Gibson at column 4, line 65-column 5, line 5).

As to claim 13, Banker, Gibson and Remillard disclose wherein the guide further comprises a plurality of interactive submenus for use with the interactive features (see Banker at Figs. 7 and 7A and column 21, lines 34-43), which submenus are displayed in

response to a selection of the menu items (see Banker at column 21, lines 34-43), the selection being received as at least one of the selection signals from the user input (see Banker at column 21, lines 34-43).

As to claim 14, Banker, Gibson and Remillard disclose wherein the submenus are displayed (see Banker at Fig. 7A) in a scaled down program video format (PIP display; see Strubbe at Fig. 6B; column 3, lines 34-45 and column 5, lines 26-39).

As to claim 15, Banker, Gibson and Remillard wherein the program and one or more of the submenus are displayed on the television at the same time (see Banker at column 12, line 63-column 13, line 13).

As to claim 16, Banker, Gibson and Remillard wherein the logo is displayed as an overlay menu (overlaid button to select; see Gibson at column 4, lines 7-36).

As to claim 17, Banker, Gibson and Remillard wherein the logo is displayed by the set top terminal (see Banker at Fig. 3; column 12, lines 42-61), and wherein the set top terminal determines whether there is data or information about the program to be displayed as the one or more interactive features (see Gibson at column 5, lines 38-54) and displays the logo if there is data or information (see Gibson at column 6, lines 1-10).

As to claim 18, Banker, Gibson and Remillard disclose wherein the set top terminal (see claim 17) generates an overlay menu including the logo (see Gibson at column 3, line 65-column 4, line 35 and column 6, lines 1-24).

As to claim 19, while Banker, Gibson and Remillard disclose generating the overlay menu utilizing a set top converter (see Banker at column 12, lines 42-61), they fail to specifically disclose using data received during a vertical blanking interval.

The examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to utilize data from a vertical blanking interval, as receiving data during a vertical blanking interval at a set top terminal allows a cable headend or other programming provider to download additional data and information to a user's system, such as interactive information or data updates, for the typical benefit allowing additional and updated information to be received at a user's terminal from a broadcast provider utilizing a television signal.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Banker, Gibson and Remillard's system to include using data received during a vertical blanking interval for the typical benefit allowing additional and updated information to be received at a user's terminal from a broadcast provider utilizing a television signal.

As to claim 20, Banker, Gibson and Remillard disclose wherein the logo is displayed in a corner of the screen of the television periodically for a specified duration (see Gibson at Fig. 3B, Fig. 4, step 408; column 5, lines 6-20).

As to claim 21, while Banker, Gibson and Remillard disclose wherein the logo is displayed for a particular period of time (pertaining to periods of time an object is on the display; see Gibson at column 6, lines 10-18 and column 4, lines 7-26 and lines 45-54), they fail to specifically disclose displaying the logo for 15 seconds during a plurality of ten-minute segments of the program.

The examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to display specific objects in a media presentation for at least 15 seconds during a plurality of ten-minutes segments of the program, such as the main character or object in a television program or movie, for the typical benefit of displaying important information to viewer's during extended periods of time during a program.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Banker, Gibson and Remillard's system to include displaying the logo for 15 seconds during a plurality of ten-minute segments of the program for the typical benefit of displaying important information to viewer's during extended periods of time during a program.

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5. Claims 1 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldstein (5,410,326) (of record) in view of Banker and Remillard.

As to claim 1, while Goldstein discloses an interactive electronic program guide for display on a television for use with a television delivery system comprising a set top terminal (column 33, lines 3-34), the guide comprising:

a home menu (master menu; column 34, lines 1-9);

a plurality of major menus displayed as menu options on the home menu (column 34, lines 6-19);

a plurality of sub-menus displayed as menu options on the plurality of major menus (column 34, line 67-column 35, line 59); and

a plurality of during programming menus enacted after selection of a program (additional information icons displayed during a program; column 14, lines 3-20), he fails to specifically disclose a mask to mask portions of a video, wherein a first graphic portion representing said mask is stored in a first graphics file in a memory of the set top terminal, a cursor highlight overlay to indicate the position of a cursor on at least one of the menus, wherein the cursor highlight overlay is moveable in response to pressing of cursor movement buttons by a user, and wherein a second graphic representing the cursor highlight overlay is stored in the second graphics file in the memory of the set top terminal, wherein the cursor highlight is displayed over the at least one of the menus which is displayed over the mask.

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In an analogous art, Banker discloses an interactive electronic program guide for controlling display of content on a television associated with a set top box (Fig. 3, 300; column 3, lines 20-29 and column 10, lines 61-63), the guide comprising:

a plurality of interactive menus (interactive menus for such features as sleep mode, messages, pay-per-view, VCR timing and STB control; Figs. 8, 10, 12, 16A, 18 and 20; column 21, line 44-column 25, line 27), each corresponding to a level of interactivity and having one or more interactive menu items for selection (Figs. 8, 10, 12, 16A, 18 and 20; column 21, line 44-column 25, line 27);

a main menu having one or more main menu items for selection (top menu; Fig. 7A), which main menu items correspond to the interactive menus (corresponding to the submenus; Fig. 7 and 7A; column 21, lines 34-45),

a mask to mask portions of a video (menu background; column 11, lines 18-30 and column 12, line 62-column 13, line 13);

a cursor highlight overlay to indicate the position of a cursor on at least one of the menus (cursor icon; Fig. 7A; column 12, lines 27-62 and column 21, lines 35-38), wherein the cursor highlight overlay is moveable in response to pressing of cursor movement buttons by a user (column 21, lines 15-43), and wherein a second graphic representing the cursor highlight overlay is stored in a second graphics file in the memory of the set top terminal (column 12, lines 27-48);

wherein the cursor highlight is displayed over the at least one of the menus (see Fig. 7A; column 21, lines 34-43) which is displayed over the mask (column 11, lines 23-31 and column 12, line 63-column 13, line 13) for the typical benefit of providing a



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means of utilizing a single available chip (column 12, lines 27-29) to easily generate and display a menu overlaid onto a television video program (column 11, lines 17-30 and column 12, line 27-column 13, line 12).

Additionally, in an analogous art, Remillard discloses television set top box (Fig. 1, 20) for generating menus overlaid onto a video program (Fig. 4; column 5, line 50-column 6, line 21) which stores menu backgrounds in memory (column 3, lines 11-20) for later output and display (column 3, lines 1-20) for the typical benefit of allowing a user to select a preferred background for display (column 3, lines 11-20).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Goldstein's system to include a mask to mask portions of a video, a cursor highlight overlay to indicate the position of a cursor on at least one of the menus, wherein the cursor highlight overlay is moveable in response to pressing of cursor movement buttons by a user, and wherein a second graphic representing the cursor highlight overlay is stored in the second graphics file in the memory of the set top terminal, wherein the cursor highlight is displayed over the at least one of the menus which is displayed over the mask, as taught by Banker, for the typical benefit of providing a user with a means to easily identify and access additional information related to a displayed video presentation.

Additionally, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Goldstein and Banker's system to include wherein the mask is stored in the first graphics file in a memory of the set top, as taught

by Remillard, for the typical benefit of allowing a user to select a preferred background for display.

As to claim 7, Goldstein, Banker and Remillard disclose wherein the during program menus comprise hidden menus and program overlay menus (comprising overlaid icons and hidden embedded information; see Goldstein at column 14, lines 3-20).

6. Claims 2-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldstein, Banker and Remillard, as applied to claim 1 above, and further in view of Strubbe et al. (Strubbe) (5,047,867).

As to claims 2, while Goldstein, Banker and Remillard disclose an introductory menu that is displayed upon beginning use of the guide (local menu to perform initialization; see Goldstein at column 33, lines 11-34) and wherein at least one of the menus of the guide comprises video, graphics and text (the display comprises overlaid icons onto the video signal; see Goldstein at column 14, lines 3-20) demultiplexed from a signal received over the television delivery system (column 18, line 50-column 19, line 12), they fail to specifically disclose wherein at least one of the menus of the guide comprises a version of the demultiplexed video which is scaled and repositioned.

In an analogous art, Strubbe discloses a television receiver system (Figs. 1 and 2; column 2, line 64-column 3, line 16) wherein a menu will be displayed to a user (Fig. 6B) with scaled and repositioned video (PIP display; Fig. 6B; column 3, lines 34-45 and

column 5, lines 26-39) upon selection of a particular program (column 5, lines 26-32) for the typical benefit of providing means for users to easily identify a particular program (column 5, lines 25-37).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Goldstein's system to include wherein at least one of the menus of the guide comprises a version of the demultiplexed video which is scaled and repositioned, as taught by Strubbe, for the typical benefit of providing means for users to easily identify a particular program.

As to claim 3, Goldstein, Banker, Remillard and Strubbe disclose wherein the guide is controlled by a set top terminal (television receiver; see Goldstein at column 33, lines 11-33), and wherein the introductory menu automatically appears on the television screen when the set top terminal is turned on (see Goldstein at column 3, lines 11-16); and

wherein the guide further comprises:

a channels query menu for querying a user to determine a first plurality of the user's favorite channels (see Goldstein at column 26, lines 40-63);

a programs query menu for querying a user to determine a first plurality of the user's favorite programs (program based favorite listing; see Goldstein at column 6, lines 52-55, column 26, line 15-column 27, line 17);

at least one favorite channels menu displaying at least some of the first plurality of favorite channels and at least some of a second plurality of favorite channels based

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on which channels are most often watched (column 26, lines 27-44 and column 9, line 56-column 10, line 10); and

at least one favorite programs menu displaying at least some of the first plurality of favorite programs and at least some of a second plurality of favorite programs based on which programs are most often watched (program based favorite listing; see Goldstein at column 6, lines 52-55, column 26, line 15-column 27, line 17 and column 9, line 56-column 10, line 10).

As to claim 4, Goldstein, Banker, Remillard and Strubbe disclose wherein the introductory menu displays information or messages from a television delivery system operations center that provides programming (see Goldstein at column 33, lines 11-68).

As to claim 5, Goldstein, Banker, Remillard and Strubbe disclose wherein the information or messages are directed to a particular subscriber (see Goldstein at column 20, lines 54-63).

As to claim 6, Goldstein, Banker, Remillard and Strubbe disclose wherein the information or messages are directed to a group of subscribers (see Goldstein at column 20, lines 54-63).

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 1 and 8 have been considered but are moot in view of the new ground(s) of rejection.

8. Applicant's arguments filed 03/01/06, with respect to claims 14, 19, 21, 22, 23 and the Gibson reference have been fully considered but they are not persuasive.

a. On pages 11 and 12, of applicant's response, applicant argues that Banker fails to disclose a mask to mask portions of a video, wherein a first graphic portion representing said mask is stored in a first graphics file in a memory of the set top terminal, a cursor highlight overlay to indicate the position of a cursor on at least one of the menus, wherein the cursor highlight overlay is moveable in response to pressing of cursor movement buttons by a user, and wherein a second graphic representing the cursor highlight overlay is stored in the second graphics file in the memory of the set top terminal, wherein the cursor highlight is displayed over the at least one of the menus which is displayed over the mask.

In response, applicant is directed to the rejections above wherein it is clearly shown that Banker includes a mask to mask portions of a video (menu background; column 11, lines 18-30 and column 12, line 62-column 13, line 13);

a cursor highlight overlay to indicate the position of a cursor on at least one of the menus (cursor icon; Fig. 7A; column 12, lines 27-62 and column 21, lines 35-38), wherein the cursor highlight overlay is moveable in response to

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pressing of cursor movement buttons by a user (column 21, lines 15-43), and wherein a second graphic representing the cursor highlight overlay is stored in a second graphics file in the memory of the set top terminal (column 12, lines 27-48); and

wherein the cursor highlight is displayed over the at least one of the menus (see Fig. 7A; column 21, lines 34-43) which is displayed over the mask (column 11, lines 23-31 and column 12, line 63-column 13, line 13).

Further, applicant's specific arguments in regards to storing the mask portion in a file in memory is moot in view of the new grounds of rejection, in view of Remillard.

b. In response to applicant's argument, of page 13 of applicant's response, that Gibson is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Gibson discloses a data processing system which will overlay a graphic onto a displayed video presentation to allow the viewer access to related information (Figs. 3A-C and column 3, line 65-column 4, line 54), such as interviews or statistics related to a particular runner in a video of a marathon (column 4, line 67-column 5, line 5).

Banker discloses a television receiver for receiving and processing multimedia (video) for display to a user (see Figs. 1-3 and column 7, line 58-column 10, line 30) and wherein additional content is overlaid onto the video presentation for display to the viewer (column 12, line 62-column 13, line 13).

Gibson's system for processing and display video presentations is clearly analogous art, as he is specifically directed towards an improved means for providing additional content to a video presentation.

Applicant's arguments that Gibson would not be analogous merely because he describes a "computer" as opposed to a television set top box is not persuasive, as Gibson specifically recites that the personal computer described is merely exemplary and that other data processing system can also be utilized (column 3, lines 10-14). Furthermore, applicant's specification is replete with instances clearly associating the set top box as being in the realm of a "computer" (see, for example, page 2, lines 21-28, page 6, lines 5-7, page 11, lines 20-21, and page 16, lines 15-20). Thus, applicant's argument's that Gibson is limited to the general field of a "computer" is not convincing.

c. In response to applicant's traversal, on page 14, of the Official Notice in regards to displaying a plurality of interactive submenus which are displayed in response to selection of a menu item, as recited in claim 13, applicant is directed to the rejections above, as both Banker (of record) and Goldstein (of record) have both been previously utilized to teach this specific feature (see Banker at

Figs. 8, 10, 12, 16A, 18 and 20; column 21, line 44-column 25, line 27 and see Goldstein at column 34, line 67-column 35, line 59).

d. In response to applicant's traversal, on page 14, of the Official Notice in regards to displaying submenus in a scaled down program video format, as recited in claim 14, applicant is directed to the rejection of claim 2 above, wherein Strubbe has been introduced disclosing this specific feature.

e. In response to applicant's traversal, on page 14, of the Official Notice in regards to displaying submenus and a video program on a television at the same time, as recited in claim 15, applicant is directed to the rejections above, as both Banker (of record) and Goldstein (of record) have both been previously utilized to teach this specific feature (see Banker at column 11, line 18-30 and see Goldstein at column 14, lines 3-20).

f. In response to applicant's traversal, on page 14, of the Official Notice in regards to the use of a set top terminal associated with a television for displaying a logo if additional information is available, as recited in claim 17, applicant is directed to the rejections above, as this feature is now taught by the combination of Banker and Gibson, and furthermore is also specifically taught by Goldstein (of record) (see Goldstein at Fig. 1 and column 14, lines 3-20).



g. In response to applicant's traversal, on page 15, of the Official Notice in regards to a set top convertor generating the overlay menu in response to data received during the VBI, as recited in claim 19, it is noted that Goldstein (of record) specifically discloses receiving data through the VBI which is processed at the receiver and overlaid as an icon onto the display (see column 14, lines 3-12, column 16, lines 46-61 and column 20, lines 54-63).

h. On page 15, of applicant's response, applicant traversed the Official Notice in regards to displaying the logo for 15 seconds during a plurality of ten-minute segments of the program, as recited in claim 21.

In response, it is noted that Banker specifically discloses transmitting the movie "Indiana Jones and the Last Crusade" as a pay-per-view event for display.

Further, applicant is provided with a copy of the Internet Movie Database page concerning this particular film ([www.imdb.com/title/tt0097576](http://www.imdb.com/title/tt0097576)) which provides clear evidence of the total running time of the movie at 127 minutes (which would consist of at least 12 "10 minute segments"). Further evidenced are the main actors of the film, Harrison Ford and Sean Connery, who were present on-screen over 15 seconds during at least two of the "10 minute segments" of the film.

Gibson, as indicated in the previous action, specifically discloses wherein additional content, and a corresponding on-screen displayed icon, are associated with a particular element in the multimedia presentation (column 5, lines 6-16),

which is specifically disclosed as being a person in a video (column 3, line 65-column 4, line 25 and column 5, lines 2-16).

Thus, as indicated in the previous action, and clearly evidenced above in regards to a specific movie referenced by Banker, it was notoriously well known in the art to display specific objects in a media presentation, such as the main character or object in a television program or movie for at least 15 seconds during a plurality of ten-minutes segments of the program, such as the main character or object in a television program or movie.

### ***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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10. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

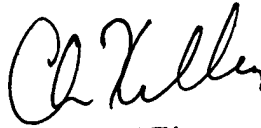
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Sheleheda whose telephone number is (571) 272-7357. The examiner can normally be reached on 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James Sheleheda  
Patent Examiner  
Art Unit 2623

JS

  
**CHRIS KELLEY**  
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